

ORIGINAL

FILED

November 20 2013

IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court Cause No. DA-13-0584

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

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COOPERATING ATTORNEY FOR
LEGAL VOICE, LEGAL MOMENTUM,
MONTANA NOW, PENNSYLVANIA NOW,
WOMEN'S LAW PROJECT,
SEXUAL VIOLENCE LAW CENTER

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STATE OF MONTANA,

Plaintiff and Appellant,

v.

STACEY DEAN RAMBOLD,

Defendant and Appellee.

**MOTION FOR LEAVE
TO FILE *AMICUS CURIAE*
BRIEF**

Legal Voice (formerly the Northwest Women’s Law Center), Legal Momentum, Montana NOW, Pennsylvania NOW, the Women’s Law Project, and the Sexual Violence Law Center (collectively the “Women’s Rights Groups”) respectfully move this Court for leave to file an *amicus curiae* brief in the above-captioned matter, in accordance with Rule 12(7) of the Montana Rules of Appellate Procedure. Counsel for Appellant and Respondent have been contacted regarding this motion. Counsel for Appellant takes no position on the filing of the proposed *amicus* brief; counsel for Respondent objects to the filing of the proposed *amicus* brief.

1. IDENTITY AND INTEREST OF MOVING PARTIES

Legal Voice is an organization dedicated to upholding women’s legal rights to equality, safety, self-determination, and bodily autonomy. Formerly known as the Northwest Women’s Law Center, Legal Voice is a regional, non-profit public interest organization that works to advance the legal rights of all women and girls in the Northwest through litigation, legislation, education and the provision of legal information and referral services. Since its founding in 1978, , Legal Voice has participated as counsel and as *amicus curiae* in cases throughout the Northwest and the country.

In Montana, Legal Voice (then the Northwest Women’s Law Center) served as co-counsel in *Gryczan v. State of Montana*, and has appeared before this Court

as *amicus*, most recently in *State of Montana v. Donaldson*, *Snetsinger v. Montana University System*, *Stoneman v. Drollinger*, and *Baxter v. State of Montana*.

Legal Momentum, the Women's Legal Defense and Education Fund, is the nation's oldest legal advocacy organization for women, www.legalmomentum.org. Founded in 1970 as NOW Legal Defense and Education Fund, Legal Momentum advances the rights of all women and girls by using the power of the law and creating innovative public policy. Legal Momentum has long engaged in efforts to eliminate gender-motivated violence, including sexual assault, and has a longstanding commitment to addressing inequality and gender bias in state and federal judicial systems. Legal Momentum was instrumental in drafting and passing the Violence Against Women Act in 1994 and its subsequent reauthorizations in 2000, 2005, and 2013. The organization has served as counsel and joined *amicus curiae* in numerous cases to support the rights of victims of sexual assault and other forms of gender-motivated violence.

Legal Momentum's award-winning National Judicial Education Program ("NJEP"), founded in 1980, was the catalyst for the nationwide formation of state Supreme Court task forces on gender bias in the courts, including the Montana Supreme Court Gender Fairness Task Force, which reported in 2000. NJEP has a particular focus on cases involving sexual assault and has developed several judicial education curricula, DVDs, and publications on all aspects of this issue.

NJEP's resources, such as its model curriculum and DVD, *Understanding Sexual Violence: The Judicial Response to Stranger and Nonstranger Rape and Sexual Assault*, and its publication, *Judges Tell: What I Wish I Had Known Before I Presided in an Adult Victim Sexual Assault Case*, are in use throughout the country and may be accessed at www.njep.org. NJEP's Director has written frequently on sexual violence, including: Lynn Hecht Schafran, *Maiming the Soul: Judges, Sentencing and the Myth of the Nonviolent Rapist*, 20 FORDHAM URBAN L. J. 439 (1993).

Montana NOW is the Montana-based statewide, grassroots, nonprofit volunteer organization with over 800 contributing and dues-paying members that is the state-level chapter of the National Organization for Women. NOW members are women and men, young and old, all colors, classes, and backgrounds, working together to bring about equal rights for all women. Montana NOW has a long history of working for civil rights for women and other minority groups. Over the years, Montana NOW has worked closely with other organizations to educate the public on key issues affecting women and their families. Among the many issues critical to women's and children's lives, Montana NOW has been a strong advocate for the enforcement and improvement of laws in Montana covering sexual assault, domestic violence, education, and child abuse. Montana NOW has

worked in coalition with other organizations in the state on these various issues and other that impact our citizens.

Pennsylvania NOW, Inc. (“Pennsylvania NOW”) is the Pennsylvania-based statewide, grassroots, nonprofit volunteer organization with over 13,000 contributing and dues-paying members; it is the state-level chapter of the National Organization for Women. NOW members are women and men, young and old, all colors, classes, and backgrounds, working together to bring about equal rights for all women. Pennsylvania NOW has a long history of working for civil rights for women and other minority groups. Over the years, Pennsylvania NOW has worked closely with other organizations to educate the public on key issues affecting women and their families. Among the many issues critical to women’s and children’s lives, Pennsylvania NOW has been a strong advocate for the enforcement and improvement of laws and policies in Pennsylvania covering sexual assault, domestic violence, education, and child abuse. This advocacy has included several decades of work calling for zero tolerance for all forms of violence against women and children at Penn State University, including the case of child-sexual assault and conviction of former PSU football coach Gerald “Jerry” Sandusky and the alleged cover-up of these assaults by the administrators at the University. Pennsylvania NOW has also provided *amicus* briefs in several sexual

assault cases, including *Commonwealth v. Fischer* in 1999, *Schieber v. City of Philadelphia* in 2001, and *Reedy v. Evanson* in 2009.

Montana NOW and Pennsylvania NOW previously filed a joint complaint related to this case with the Montana Judicial Standards Commission on September 23, 2013.

The Women's Law Project ("WLP") is a nonprofit public interest law firm with offices in Philadelphia and Pittsburgh, Pennsylvania. The WLP's mission is to create a more just and equitable society by advancing the rights and status of all women throughout their lives. To this end, the WLP engages in high-impact litigation, advocacy, and education. The core values of the WLP are a belief in the right of all women to bodily integrity and personal autonomy; dedication to listening to women and being guided by their experiences; and commitment to fairness, equality, and justice. WLP is committed to ending violence against women and children and to safeguarding the legal rights of women and children who experience sexual abuse. To that end, WLP has provided counseling to victims of violence through its telephone counseling service, engages in public policy advocacy work, and serves as counsel for and joins as *amicus curiae* seeking to improve the response of the legal system to victims of sexual assault and violence.

The Sexual Violence Law Center (“SVLC”) is a nonprofit organization based in Seattle, Washington that works to create a world without sexual violence. The mission of SVLC is to help sexual assault survivors rebuild their lives by protecting their privacy, safety and civil rights through legal advocacy and education. SVLC provides services to the community including holistic legal representation, consulting, referrals, legal clinics, and other support for survivors, as well as training advocates, attorneys, university employees, law enforcement, and judges. Through SVLC’s Sexual Assault Legal Services & Assistance program, SVLC has provided direct legal representation or consultations to hundreds of survivors of sexual assault in King County, Washington, and has assisted hundreds of other survivors across the state through legal clinics, publications, and a legal information and referral hotline. SVLC is committed to ensuring that all victims of sexual violence have access to justice and are treated fairly and respectfully within the legal system.

2. REASONS WHY AN *AMICUS* BRIEF IS DESIRABLE AND POSITION SUPPORTED

Pursuant to Rule of Appellate Procedure 12(7), the Women’s Rights Groups seek leave to file an *amicus curiae* brief in this case supporting the position of Appellant State of Montana. *Amici* bring to this case considerable expertise in legal and social advocacy for women’s rights, including the rights of women who

are victims of crimes such as rape. Here, statements were made by the District Court Judge which reflect stereotypical, prejudicial, and generally false beliefs regarding sexual assault. Such rape myths, especially when advanced through the legal process, severely erode the faith of sexual assault survivors in the legal system. Such rape myths should not serve as a basis for imposing a minimum sentence. *Amici* believe a brief addressing these issues would be of service to the Court in resolving this case.

3. DATE FOR FILING

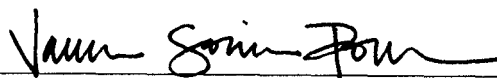
The Women's Rights Groups seek leave to file their brief by December 13, 2013.

4. CONCLUSION

For the reasons stated above, the Women's Rights Groups respectfully ask the Court for leave to file the brief of *amici curiae*.

DATED this 19th day of November, 2013.

STOEL RIVES LLP



Vanessa S. Power, Montana Bar No. 7286

Cooperating Attorney for Legal Voice, Legal Momentum, Montana NOW, Pennsylvania NOW, Women's Law Project, Sexual Violence Law Center

CERTIFICATE OF SERVICE

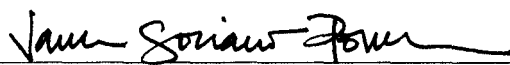
I certify that I served copies of the foregoing Motion for Leave to File *Amicus Curiae* Brief by sending via Over-Night delivery to:

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DATED this 19th day of November, 2013.



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